IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 10457 of 1995

AND

WRIT PETITION NO.10459 OF 1995

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WRIT PETITION NO : 10457 of 1995

Between:

S. Vedam, S/o V. Swayambu Iyer, aged 70 years, Occ. Managing Director, Tiffin's Barytes Asbestos & Paints Ltd, R/o No.127, Angappa Street, Madras, rep. by G.P.A. Holder Mr. G. Raju, S/o G.Gopalakrishnan, aged 45 years, R/o Plot No.193, Cheran Street, Ganesh Nagar, Madras-73

..... PETITIONER

AND

1.The Controlling Authority, under Payment of Gratuity Act, 1972 cum- The Asst. Labour Commissioner (Central)ATI Campus, Vidyanagar,Hyderabad.
2.G. Narayanswamy (dismissed)
3.Tiffin's Barytes Asbestos & Paints Ltd., rep. by S. Vedam, Partner, Andhra Chambers Buildings, No.127, Angappa Street, P.B.No.72, Madras-600 001.
4.Mr. Madalam Prabhakar, Managing Partner, Associated Mineral Corporation. 22/27, Wakalam Street, Ananthapur, Andhra Pradesh.

(R2 dismissed for default as per Court Order dt.07-01-2003).

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue notice, call for the records and quash and set aside the impugned order made in Case No.48/6/94-E2/E5, dt: 31-3-1995 on the file of the Controlling Authority under Payment of Gratuity Act of 1972 cum-Asst.Labour Commissioner (Central), Hyderabad, by issuing a writ of Certiorari or any other appropriate writ, or order or direction as the Hon'ble Court may deem fit and proper in the circumstances of the

case and to allow the Writ Petition with costs.

Counsel for the Petitioner: MR.P.NAGESWAR SREE

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.3: NONE APPEARED

Counsel for the Respondent No.4: Mr.A.BHASKARACHARI

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WRIT PETITION NO : 10459 of 1995

Between:

S. Vedam S/o. V. Swayambu Iyer, aged 70 years, Occ. Managing Director, Tiffin's Barytes Asbestos & Paints Ltd, R/o. No.127, Angappa Street, Madras, rep. by his G.P.A. Holder Mr. G. Raju, S/o. G. Gopalakrishnan, 45 years, R/o. Plot No. 193, Cheran Street, Ganesh Nagar, MADRAS - 73.

..... PETITIONER

AND

1.The Controlling Authority, Under Payment of Gratuity Act, 1972 cum-The Asst. Labour Commissioner (Central) ATI Campus, Vidyanagar, Hyderabad.

2.R.Subramanyam, Ex-workmen, Associated Mineral- Corporation (AMC), Mangampet Post, Agraharam, Railway Kodur, Cuddapah District, A.P.

3.Tiffin's Barytes Asbestos & Paints Ltd, rep. by S. Vedam, Partner, Andhra Chambers-Buildings, No.127, Angappa Street, P.B.No.72, Madras - 600 001.

4.Mr. Madalam Prabhakar, Managing Partner, Associated Mineral-Corporation 22/27, Wakalam Street, Ananthapur, A.P. - 515 001.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue notice, call for the records and quash and set aside the impugned order made in Case No.48/14/94-E2/E5, dt. 31-3-1995 on the file of the Controlling Authority under Payment of Gratuity Act of 1972 cum-Asst. Labour Commissioner (Central), Hyderabad, by issuing a writ of certiorari or any other appropriate writ or order or direction as the Hon'ble court may deem fit and proper in the circumstances of the

case and to allow the writ petition with costs.

Counsel for the Petitioner: MR.P.NAGESWAR SREE

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the respondent Nos.2 to 4: NONE

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The court made the following:

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COMMON ORDER:

These two Writ Petitions are filed challenging the Order dated 31-03-1995 passed by the Controlling Authority under Payment of Gratuity Act,1972.

2. It is the case of the petitioner that he is not the employer and therefore, the order passed by the authority is illegal and without jurisdiction.

3. I am afraid to accept this contention. A statutory appeal under the Payment of Gratuity Act lies to appellate authority. The petitioner has not filed the statutory appeal.

4. Under these circumstances, I find that these Writ Petitions are wholly misconceived and accordingly the same are dismissed, leaving it open to the petitioner to approach the appellate authority under the Payment of Gratuity Act.

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G.BIKSHAPATHY,J.

Date: 30th September 2004

Prv/Bsb

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1.The Controlling Authority, under Payment of Gratuity Act, 1972

cum- The Asst.Labour Commissioner (Central)ATI Campus,

Vidyanagar,Hdyerabad.

2. Two CCs to the Government PIeader for Labour, High Court

Buildings, Hyderabad (OUT).

3. Two CD copies.